

as in the above example, who use pay telephones and other phones serving the transient public.

In addition, substantial costs in balloting for 0+ calls would be incurred by both the OSPs and the LECs. The 1+ presubscription process offers some guidance as to the range of those costs. NYNEX estimated that the cost to LECs of conducting balloting for presubscription is \$1.50 per line. 17/

These costs, both individually and collectively, are exorbitantly high, yet ignored in the Commission's cost estimates for implementing billed party preference. As they are key to obtaining customers, these costs are real and must be included in any estimate of costs of billed party preference. 18/

C. Originating Phone Compensation.

Historically, commissions representing the purchase of shelf space have served a two-pronged purpose. As noted above, they have permitted an OSP the opportunity to efficiently offer its services from transient locations, and importantly, they have also permitted pay telephone owners and owners of other phones serving the transient public to recover their costs of making the phones and the environment which supports the phones, available in the first instance. As noted previously, each OSP will have to incur the costs of nationwide advertising, and balloting

17/ Comments of the NYNEX Telephone Companies in CC Docket No. 92-77 filed July 7, 1992 at 11.

18/ The sheer enormity of the costs that billed party preference will impose on OSPs will make it difficult for small businesses like IOS to survive.

campaign in order to have an opportunity to service customers. OSPs will also have to pay the location owners for the use of the phones and surrounding environs. Whether the payment is made through the FCC's establishment of additional pay phone compensation or, as now, paid directly to the pay phone owner, certainly the entity that provides and maintains the shelf space is entitled to reasonable compensation for his or her provision of the shelf space and equipment essential to call placement in the first instance. 19/

As previously discussed, there is substantial value in the payment of commissions to operator service providers. Those sums purchase for the OSP the right to offer services from that location, and the right to advertise its services from that location, typically on the placard of the phone and prior to call placement. End users placing calls can determine from this advertising whether they wish to utilize the OSP or some other carrier, and can choose either. 20/

19/ There is, however, typically only one OSP serving each correctional institution. Serving these institutions raises unique issues of security which requires the circumscription of choice. That does not mean that prisoners and their families should be forced to pay exorbitant rates in order to communicate.

20/ Intellicall expects that advertising, focussed at the situs of the phone, will have to become more obvious, if OSPs other than the few large 1+ carriers are to prosper. Callers are routinely, and increasingly to dialing carriers, using (e.g. 1 800 CALL ATT or 1 800 COLLECT) both because of their familiarity of those carriers' services, and the perception caused both by some OSPs practices, and AT&T's successful smear campaign that 0+ dialing can result in higher rates.

**IV. THE COMMISSION'S BPP IMPLEMENTATION DESIGN
WILL SIMPLY REALIGN THE OPERATOR SERVICES
MARKET IN THE IMAGE OF THE 1+ MARKET.**

The Notice, ¶ 65-67, discusses the processes the Commission contemplates could be used for balloting. It has tentatively concluded that the presubscription process, including notices to consumers, can be substantially curtailed vis a vis 1+ equal access balloting, and that customers who do not respond to their ballot request will be defaulted to their 1+ carrier. Implementation of the presubscription and balloting process as proposed will assure that most OSPs -- virtually all OSPs without a 1+ base -- will have their existing market shares handed, on silver platter, to 1+ carriers.

Participation in the presubscription and balloting process at any level will be prohibitively expensive for most OSPs, in particular set based OSPs ^{21/} who provide operator services from select locations. Certainly these companies, pioneers in introducing smart technology which offers consumers service options, e.g., automatic collect, and voice messaging, will not have the resources necessary to participate. Nor would the economic return be there even if they could participate. The process will force consumers to pick, if they do pick, a ubiquitous carrier out of fear that, if they don't, they won't

^{21/} As noted in its Statement of Position, Intellicall manufactures smart payphones capable of providing operator services from the location without the need for network based OSP intervention, and sells these to payphone providers around the country. These payphone providers, hence, are also OSPs.

have operator services available to them when away from home. But these set based providers are not alone. Companies, like IOS, will similarly be, in essence, excluded from the process.

Unlike with equal access balloting, the Commission apparently contemplates very circumscribed communication with end users on the details of 0+ presubscription and balloting. See Notice at ¶ 66. Instead, the Commission "presumes that OSPs would begin advertising campaigns aimed at winning 0+ business well before balloting takes place." Id. In other words, OSPs should initiate a nationwide advertising campaign in order to secure 0+ customers. This is easier said than done. The 1+ carriers already spend billions or millions of dollars on long distance advertising each year, and OSPs who want a share of the 0+ market would likely have to participate at similar, or greater, levels in order to garner any share at all of the prescription market. 22/

Furthermore, this effort would likely go unrewarded under any circumstances. Even with the years of advertising that preceded 1+ presubscription, the deluge of publicity that surrounded the break-up of AT&T, laying the ground work for presubscription, and the repeated mailings to consumers by the LECs and IXC's to inform them of the dates and processes under way, less than 20% of the people balloted responded at all. See Bell Atlantic and BellSouth Ex Parte dated May 5, 1994 at 5.

22/ According to the Washington Post, Advertising Age "puts MCI's annual advertising budget at \$150 million, and AT&T's annual advertising budget for long distance at \$1.4 billion. See Washington Post, June 26, 1994.

Given the comparative lack of exposure to the 0+ balloting envisioned by the Commission, it is highly likely that substantially less than 20% of the population will respond, making the expense associated with advertising highly questionable.

It becomes even more doubtful that OSPs would have a realistic, meaningful chance to participate if the default vote, likely to be almost all voters -- is allocated among 1+ carriers. That allocation mechanism, not surprisingly, will merely allow 1+ carriers, to obtain the lion's share of the 0+ traffic.

CONCLUSION

For the foregoing reasons, the Intellicall Companies request that the FCC adopt rate quotes for OSP rates and that it relegate all billed party preference proposals into the trash bin of history.

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INTELLICALL COMPANIES

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August 1, 1994

Attachment

Most states have in place rate regulations for intrastate interLATA 0+ service. A majority of them impose a cap on rates that is related to AT&T or the underlying IXC. Those regulations and the states that adhere to them are as follows:

States Which Cap OSP Rates Based on AT&T Rates

Colorado
Georgia
Indiana
Iowa
Kansas
Kentucky
Massachusetts
Minnesota
North Carolina
Tennessee
Washington
Wisconsin

Capped at AT&T Rates Plus a Surcharge

California
Florida
Ohio
South Carolina
Virginia

Capped at Underlying Carrier or Presubscribed Carrier Rates

Alabama
Arizona
Maryland
Mississippi
Missouri
Pennsylvania
West Virginia

Annual Rate Cap

Louisiana
Nevada

Announcement if Exceed AT&T Rate

Texas

CERTIFICATE OF SERVICE

I, Courtenay P. Adams, hereby certify that a copy of the foregoing *Comments of Intellicall Companies* was sent, this 1st day of August 1994, by U.S. first-class mail to the following individuals:

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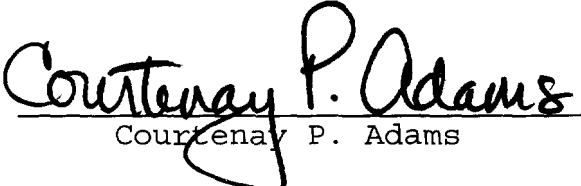
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